

SAN DIEGO COUNTY BOARD OF
SUPERVISORS,

Appellant

v.

SACRAMENTO ARFA DIRECTOR,
BUREAU OF INDIAN AFFAIRS,

Appellee

: Order Docketing and Dismissing

: Appeal

:

:

: Docket No. IBIA 96-3-A

:

:

: October 18, 1995

This is an appeal from an August 30, 1995, decision issued by the Sacramento Area Director, Bureau of Indian Affairs (Area Director; BIA), concerning the acquisition of land in trust for the Sycuan Band of Mission Indians. The notice of appeal was filed by the San Diego County Board of Supervisors (appellant), through its Chairwoman, Dianne Jacob.

The appeal is docketed under the above case name and number, which should be cited in all future correspondence or inquiries regarding the matter. The Board finds, however, that the circumstances of this case require that the appeal be dismissed.

The Area Director's decision stated:

Should you feel you are adversely affected by this decision, you may appeal to the Interior Board of Indian Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203, in accordance with the regulations in 43 CFR 4.310-4.340 (copy enclosed).

Your notice of appeal to the Board must be signed by you or your attorney and must be mailed within 30 days of the date you receive this decision. * * *

If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal.

The Area Director correctly described the requirements of the Board's regulations concerning the filing of notices of appeal. 43 CFR 4.332(a) provides: "A notice of appeal shall * * * be filed with the Board * * * within 30 days after receipt by the appellant of the decision from which the appeal is taken. * * * A notice of appeal not timely filed shall be dismissed for lack of jurisdiction." See also 43 CFR 4.334.

The return receipt for Jacob's copy of the Area Director's decision shows that Jacob received it on September 5, 1995. Appellant's notice of appeal to the Board was postmarked October 10, 1995, more than 30 days after September 5, 1995.

Accordingly, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal is missed as untimely. 1/

Anita Vogt
Administrative Judge

Kathryn A. Lynn
Chief Administrative Judge

1/ The Area Director's decision was also sent to two other County officials, the Assessor and the Acting Director, Department of Planning and Land Use. These officials received their copies on September 5, 1995, and September 8, 1995, respectively. Even if this notice of appeal had been filed by one of these two officials, it would still have been untimely.